

Message Text

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TAGS: OECD, EFIN

SUBJECT: OECD QUESTIONNAIRE ON DISCLOSURE REQUIREMENTS

REF: CMF(76)22

1. OECD COMMITTEE ON FINANCIAL MARKETS ASKED MEMBER
COUNTRIES; TO REPLY BY DECEMBER 31 TO QUESTIONNAIRE
CONTAINED IN REF DOC ON DISCLOSURE REQUIREMENTS AND
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PROCEDURE UNDER SECURITIES LAWS AND REGULATIONS. PLEASE
TRANSMIT THE FOLLOWING REPLY TO OECD SECRETARIAT:

(1) STATUTES AND REGULATIONS OF THE UNITED STATES
CONCERNING AVAILABILITY OF INFORMATION ON SECURITIES
ISSUES, WHETHER TRADED ON EXCHANGES OR OVER-THE-COUNTER
(WITH EXEMPTIONS)

(A) SECURITIES ACT OF 1933, MAY 27, 1933, 48 STAT. 74,
15 U.S.C. SECTIONS 77A - 77AA (1970) AND REGULATIONS
THEREUNDER, 17 C.F.R. PART 230 (1976)

(BROADLY EXEMPTS DOMESTIC GOVERNMENT, BANK AND INSURANCE
COMPANY SECURITIES FROM ITS COVERAGE).

(B) TRUST INDENTURE ACT OF 1939, AUGUST 3, 1939, 53
STAT. 1149, 15 U.S.C. SECTIONS 77AAA - 77BBBB (1970),
AND REGULATIONS THEREUNDER, 17 C.F.R. PART 260 (1976)

(REQUIRES MOST SIGNIFICANT ISSUES OF DEBT SECURITIES TO
BE ISSUED UNDER A PRESCRIBED FORM OF INDENTURE).

(C) SECURITIES ("BLUE SKY") ACTS OF THE SEVERAL STATES

(BROADLY EXEMPT BOTH EQUITY AND SENIOR SECURITIES OF
ISSUERS WHOSE EQUITY SECURITIES ARE TRADED ON MAJOR
UNITED STATES EXCHANGES).

(2) STATUTES AND REGULATIONS OF THE UNITED-STATES
CONCERNING AVAILABILITY OF INFORMATION ON SECURITIES IS-
SUERS, WHETHER SECURITIES OF SUCH ISSUERS ARE TRADED ON
EXCHANGE OR OVER-THE-COUNTER (WITH EXEMPTIONS)

(A) SECURITIES EXCHANGE ACT OF 1934, JUNE 6, 1934, 48
STAT. 881, 15 U.S.C. SECTIONS 78A - 78HH-1 (1970) AND
REGULATIONS THEREUNDER, 17 C.F.R. PART 240 (1976).
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(IN ORIGINAL FORM CONCERNED ONLY WITH ISSUERS WHOSE
EQUITY SECURITIES WERE TRADED ON EXCHANGES).

(B) SECURITIES ACTS AMANDMENTS OF 1964

(ADDED SECTION 12(G) TO THE SECURITIES EXCHANGE ACT OF
1934, REQUIRING DISCLOSURE RELATING TO ALL SUBSTANTIAL
ISSUERS OF EQUITY SECURITIES -- WHETHER TRADED ON
EXCHANGES OR OVER-THE-COUNTER).

(C) WILLIAMS ACT, JULY 29, 1968, PUB. L. NO. 90-439,
82 STAT. 454, 15 U.S.C. SECTIONS 78M(D) - (E), 78N(D) -
(F) (1970).

(ADDED SECTIONS 13(D) THROUGH (E) AND 14(D) AND (E) TO
THE SECURITIES EXCHANGE ACT OF 1934, MANDATING DISCLOSURE
IN CONNECTION WITH CASH TENDER OFFERS. WILLIAMS ACT
REGULATION EXTENDS ALSO TO INSURANCE COMPANIES WHICH

WOULD BE SUBJECT TO THE EXCHANGE ACT BUT FOR THE EXISTENCE OF SUBSTANTIALLY EQUIVALENT STATE LEGISLATION).

(D) THE INVESTMENT COMPANY ACT OF 1940, AUGUST 22, 1940, 54 STAT. 789, 15 U.S.C. SECTIONS 80A-1 - 80A-52 (1970), AND REGULATIONS THEREUNDER, 17 C.F.R. PART 270 (1976).

(REGULATING THE STRUCTURE AND PRACTICES OF "MUTUAL FUNDS").

(E) THE 1970 AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940, DECEMBER 14, 1970, PUB. L. NO. 91-547, SECTIONS 1-22, 84 STAT. 1413.

(SUBSTANTIALLY REVISING THE SCHEME OF REGULATION FOR MUTUAL FUNDS).

(3) CERTAIN MAJOR CAVEATS SHOULD BE NOTED ON THE EXTENT UNCLASSIFIED

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OF EXCHANGE ACT REGULATION OF ISSUERS OF SECURITIES TRADED ON EXCHANGES OR OVER-THE-COUNTER. THE 1964 AMENDMENTS BROADLY SOUGHT TO EQUALIZE TREATMENT BETWEEN ISSUERS WHOSE EQUITY SECURITIES WERE TRADED ON ORGANIZED EXCHANGES AND THOSE ISSUERS WHOSE EQUITY SECURITIES WERE TRADED OVER-THE-COUNTER. AFTER THE EFFECTIVE DATE OF THE 1964 AMENDMENTS, BANKS AND INSURANCE COMPANIES CONTINUE TO OCCUPY SPECIAL POSITIONS. THUS, WHILE THE EXCHANGE ACT APPLIES TO BANKS, THE SEC'S REGULATIONS UNDER THE EXCHANGE ACT DO NOT APPLY. INSTEAD, APPLICABLE BANK REGULATIONS, IMPLEMENTING THE EXCHANGE ACT, ARE PROMULGATED BY FEDERAL BANK REGULATORY AGENCIES. HOWEVER, THOSE STATE BANKS WHICH ARE NOT SUBJECT TO FEDERAL BANK REGULATORY AGENCIES ARE SUBJECT TO SEC REGULATIONS. GENERALLY, INSURANCE COMPANIES ARE NOT SUBJECT EITHER TO THE EXCHANGE ACT OR TO THE SEC'S REGULATIONS THEREUNDER, PROVIDING THE LAW OF THE INSURANCE COMPANY'S DOMICILIARY STATE SUBJECTS INSURANCE COMPANIES TO STATE LAW REGULATION SUBSTANTIALLY EQUIVALENT. (ALL STATES OF THE UNITED STATES HAVE ADOPTED UNIFORM LEGISLATION WHICH IS SO EQUIVALENT.) NEVERTHELESS, INSURANCE COMPANIES ARE SUBJECT TO SEC REGULATION UNDER THE 1968 WILLIAMS ACT IN RESPECT TO CASH TENDER OFFERS. VERY RECENTLY MANY STATES HAVE ADOPTED LEGISLATION REGULATING CASH TENDER OFFERS MORE RESTRICTIVELY THAN DOES THE FEDERAL LEGISLATION.

(4) A FOREIGN ISSUER WHO HAS MADE A REGISTERED PUBLIC OFFERING IN THE U.S. BECOMES SUBJECT TO SEC REPORTING REQUIREMENTS UNDER SECTION 15(D) OF THE EXCHANGE ACT. EVEN IF A FOREIGN ISSUER HAS NEVER MADE A PUBLIC OFFERING IN THE U.S., IF A SUFFICIENT NUMBER OF U.S. CITIZENS

HOLD AND TRADE SECURITIES OF THAT ISSUER IN THE UNITED STATES, THE ISSUER IS SUBJECT TO THE REPORTING REQUIREMENTS UNDER SECTION 13 OF THE EXCHANGE ACT. IN EITHER CASE, SUCH FOREIGN ISSUERS ARE REQUIRED TO FILE WITH THE SEC USING FORM 20. THE DISCLOSURE PRESENTLY REQUIRED BY UNCLASSIFIED

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FORM 20 IS GENERALLY PERMISSIVE AND SIMILAR TO THE ISSUER'S DISCLOSURE IN ITS HOME COUNTRY. UNITED STATES AND CANADIAN ISSUERS MUST USE THE MORE SEARCHING AND DETAILED FORM 10 IN FILING WITH THE SEC, AND FILE ANNUAL REPORTS ON FORM 10K.

(5) NON-GOVERNMENTAL AGENCIES AND INDEPENDENT BODIES TO WHICH GOVERNMENTAL RESPONSIBILITIES HAVE BEEN DELEGATED.

(A) NATIONAL ASSOCIATION OF SECURITIES DEALERS (NASD),

EXISTING UNDER THE MALONEY ACT, 15A OF THE SECURITIES EXCHANGE ACT OF 1934. THE NASD MANUAL IS FULLY AS IMPORTANT AS THE SEC REGULATIONS.

(B) MUNICIPAL SECURITIES RULEMAKING BOARD,

CREATED UNDER PROVISIONS OF THE SECURITIES ACT AMENDMENTS OF 1975, JUNE 4, 1975, PUB. L. NO. 94-29, 89 STAT. 97, LARGELY CHARGED TO PROMULGATE RULES RESPECTING LICENSING AND BUSINESS CONDUCT OF BROKER DEALERS ENGAGED SOLELY IN TRADING OF GOVERNMENT AND MUNICIPAL SECURITIES.

(C) VARIOUS SECURITIES EXCHANGES,

ESPECIALLY UNDER PROVISIONS OF THE SECURITIES ACTS AMENDMENTS OF 1975, HAVE A CLOSER RELATION TO THE U.S. SECURITIES AND EXCHANGE COMMISSION, WHICH BEARS ULTIMATE RESPONSIBILITY FOR DISCLOSURE POLICY AND ENFORCEMENT. ROBINSON

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